THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 16037 of 2007

DATE: -07-2007

Between :

T.Umamaheswara Reddy

… Petitioner

And

The Joint Collector,
Nellore and 3 others.

… Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 16037 of 2007

ORDER:

Petitioner herein is a wholesale kerosene dealer holding a Form-B licence under Andhra Pradesh Petroleum Products (Licensing & Regulation Supply) Order, 1980 (for short 'the Order').

On 19-07-2007, the business premises of the petitioner was inspected by the respondents 3 and 4 and after verifying the records and the ground stock available, it was found that there was a variation of 10,621 liters kerosene. The petitioner explained that he had sent 12,000 litres of kerosene on 18-07-2007 through a tanker to Kavali for delivery to the Fair Price shop dealers. However, the same was disbelieved by the respondents and the entire stock was seized under a panchanama and a report under Section 6-A of the Essential Commodities Act (for short 'the Act') was submitted to the first respondent. Immediately, thereafter, the petitioner filed a petition before the first respondent on 20-07-2007 requesting to release the seized kerosene stating that the alleged variation of the stock available in the underground tank was incorrect and without any basis. However, the first respondent by order dated 21-07-2007 directed one M/s. J.Subrahmanyam and Company, Kovur to distribute the seized kerosene oil and to remit the sale proceeds in the revenue deposit observing that a *prima facie* case of contravention of the provisions of Clause 12(2) of the Order as well as conditions 3 and 5 of Form-B licence issued to the petitioner has been made out. Hence, this writ petition seeking a declaration that the seizure affected on 19-07-2007 is arbitrary and illegal. The petitioner also seeks a declaration that the order of the first respondent dated 21-07-2007

directing disposal of the seized stock without considering the petitioner's application dated 20-07-2007 for release of the stock is arbitrary and illegal.

Learned counsel for the petitioner, while placing reliance upon a decision of this Court in ***Jawahar Brothers v. Chief Rationing Officer***[1]***,*** vehemently contended that the alleged contravention of the conditions of licence cannot be a valid ground for seizure and, consequently, the entire proceedings are illegal and liable to be set aside.

On a careful consideration of the entire material on record, I do not find any substance in the contentions raised by the petitioner.

Even in **Jawahar Brothers case** (1 supra), it was held that when the conditions of licence have been incorporated in the Control Order, the violation of conditions of licence shall have to be viewed as contravention of provisions of the control order and therefore, the same can be a valid ground for seizure under clause 18 of the Andhra Pradesh Scheduled Commodities Dealers' (Licensing and Distribution) Order, 1982.

The ratio laid down in the said decision is of no assistance to hold that the impugned seizure is without jurisdiction. So far as the contention that the alleged variation is false and baseless is concerned, the same being the subject matter of enquiry pending before the 1st respondent, it is neither necessary nor proper for this Court to express any opinion.

That apart, the learned Government Pleader for Civil Supplies under instructions has stated that basing on the seizure report dated 19-07-2007 alleging variation of 10,621 litres of kerosene, a show cause notice dated 25-07-2007 was issued to the petitioner to show cause as to why the licence issued in Form-B should not be cancelled and by a separate order dated 25-07-2007 the licence was also placed under suspension pending enquiry under clause 28(2). It is also stated that the proceedings initiated for

confiscation under Section 6-A of the Act are also pending before the first respondent.

Having regard to the fact that Form-B licence of the petitioner is not subsisting as on today, I do not find any justifiable reason to interfere with the order of the 1st respondent dated 21.7.2007 on any ground whatsoever.

Accordingly, the writ petition is dismissed granting leave and liberty to the petitioner to challenge the order of suspension dated 25.7.2007 before the appropriate forum by raising all the grounds raised in this writ petition. No costs.

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G. ROHINI, J

Date:31-07-2007
Note: Issue CC in two days.
(Bo)
KLP

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[1] 1995(2) ALT 820